

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 3, 2013

AMENDED IN SENATE MARCH 18, 2013

## SENATE BILL

**No. 266**

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**Introduced by Senator Lieu**

February 13, 2013

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An act to ~~add Section 687 to the Business and Professions Code, and to add Section 1250.04 to the Health and Safety Code~~ *amend Section 1741.1 of the Labor Code*, relating to ~~health care coverage~~ *public works*.

### LEGISLATIVE COUNSEL'S DIGEST

SB 266, as amended, Lieu. ~~Health care coverage: out-of-network coverage. Prevailing wages.~~

*Existing law requires the Labor Commissioner to issue a civil wage and penalty assessment to a contractor or subcontractor, or both, if, after an investigation, the commissioner determines there has been a violation of the law regulating public works projects, including the payment of prevailing wages. Existing law tolls the period for service of assessments for the period of time required by the Director of Industrial Relations to determine whether a project is a public work, as specified. Existing law, with respect to the determination of whether a project is a public work, requires a person filing a notice of completion of the project to also provide notice to the Labor Commissioner, as specified, and requires the awarding body or political subdivision accepting a public work to provide to the Labor Commissioner notice of that acceptance, as specified.*

*This bill instead would require the body awarding the contract for public work to furnish, within 10 days after receipt of a written request from the Labor Commissioner, a copy of the valid notice of completion for the public work or a document evidencing the awarding body's acceptance of the public work on a particular date, whichever occurs later, in accordance with specified provisions. The bill would require the awarding body to notify the appropriate office of the Labor Commissioner if, at the time of receipt of the Labor Commissioner's written request, there has been no valid notice of completion filed by the awarding body in the office of the county recorder, and no document evidencing the awarding body's acceptance of the public work on a particular date. If the awarding body fails to timely furnish the Labor Commissioner with the applicable document, the bill would require that the period for service of assessments be tolled until the Labor Commissioner's receipt of the applicable document. The bill would also include legislative findings and declarations.*

~~Existing law provides for the licensure and regulation of health care practitioners by various healing arts boards within the Department of Consumer Affairs. Existing law also provides for the licensure and regulation of health facilities by the State Department of Public Health. A violation of these provisions is a crime.~~

~~This bill would prohibit a medical group or clinic, as defined, from stating, verbally or in writing, that it is within a plan network or a provider network unless all of the individual providers providing services with the medical group or clinic are within the plan network or provider network. The bill would require a provider group or clinic to recommend that the patient contact his or her health care service plan or health insurer for information about providers who are within the patient's plan network or medical network if any of the providers in that medical group or clinic are not within the plan network or provider network. Those provisions would not apply to emergency services and care.~~

~~This bill would also require a hospital, before providing nonemergency services and care, to provide a specified written notice to the patient stating that individual providers providing services within the hospital may not be in the patient's plan network or provider network, except as specified. By expanding the scope of a crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1     SECTION 1. *The Legislature finds and declares at all of the*  
2     *following:*

3     (1) *The process for the Director of Industrial Relations to*  
4     *determine the existence of a public work and to decide*  
5     *administrative appeals from those determinations has created*  
6     *unacceptable delays and prejudice to the enforcement of the public*  
7     *works law, often resulting in the expiration of the statute of*  
8     *limitation for the identification and collection of wage and penalty*  
9     *assessments. As a result, wage theft has occurred because workers*  
10    *are not paid prevailing wage rates and the time for assessment*  
11    *has expired.*

12    (2) *There has been an incentive to some developers, contractors,*  
13    *and public bodies to engage in expensive and time-consuming*  
14    *litigation in efforts to extend the time for determining the existence*  
15    *of a public work. This litigation is often a needless expense to the*  
16    *state.*

17    (3) *Public bodies, developers, contractors, and others are*  
18    *entitled to a determination of whether a project is a public work*  
19    *as early as possible so that the costs of the project and the duties*  
20    *of the parties under the law may be known as early as possible.*

21    (4) *Therefore, this act is necessary to ensure the actual receipt*  
22    *of proper wages, to reduce administrative and litigation costs to*  
23    *the state and others, and to provide early guidance to all interested*  
24    *parties.*

25    SEC. 2. *Section 1741.1 of the Labor Code is amended to read:*

26    1741.1. (a) The period for service of assessments shall be  
27    tolled for the period of time required by the Director of Industrial  
28    Relations to determine whether a project is a public work, including  
29    a determination on administrative appeal, if applicable, pursuant  
30    to subdivisions (b) and (c) of Section 1773.5. The period for service

1 of assessments shall also be tolled for the period of time that a  
2 contractor or subcontractor fails to provide in a timely manner  
3 certified payroll records pursuant to a request from the Labor  
4 Commissioner or a joint labor-management committee under  
5 Section 1776, or an approved labor compliance program under  
6 Section 1771.5 or 1771.7.

7 ~~(b) The person filing a notice of completion in the office of a~~  
8 ~~county recorder pursuant to subdivision (a) of Section 1741 shall~~  
9 ~~at the same time also provide notice to the Labor Commissioner,~~  
10 ~~in a manner determined by the Labor Commissioner. The awarding~~  
11 ~~body or political subdivision accepting a public work under~~  
12 ~~subdivision (a) of Section 1741 shall provide notice of that~~  
13 ~~acceptance to the Labor Commissioner within five days of the~~  
14 ~~acceptance, in a manner determined by the Labor Commissioner.~~  
15 ~~The 180-day period for service of assessments shall be tolled for~~  
16 ~~the length of time notice is not given in a timely manner to the~~  
17 ~~Labor Commissioner pursuant to this subdivision.~~

18 *(b) (1) The body awarding the contract for public work shall*  
19 *furnish, within 10 days after receipt of a written request from the*  
20 *Labor Commissioner, a copy of the valid notice of completion for*  
21 *the public work filed in the office of the county recorder, or a*  
22 *document evidencing the awarding body's acceptance of the public*  
23 *work on a particular date, whichever occurs later, by first-class*  
24 *mail addressed to the office of the Labor Commissioner that is*  
25 *listed on the written request. If, at the time of receipt of the Labor*  
26 *Commissioner's written request, a valid notice of completion has*  
27 *not been filed by the awarding body in the office of the county*  
28 *recorder and there is no document evidencing the awarding body's*  
29 *acceptance of the public work on a particular date, the awarding*  
30 *body shall so notify the office of the Labor Commissioner that is*  
31 *listed on the written request. Thereafter, the awarding body shall*  
32 *furnish copies of the applicable document within 10 days after*  
33 *filing a valid notice of completion with the county recorder's office,*  
34 *or within 10 days of the awarding body's acceptance of the public*  
35 *work on a particular date.*

36 *(2) If the awarding body fails to timely furnish the Labor*  
37 *Commissioner with the documents identified in paragraph (1), the*  
38 *period for service of assessments under Section 1741 shall be*  
39 *tolled until the Labor Commissioner's actual receipt of the valid*  
40 *notice of completion for the public work or a document evidencing*

1 *the awarding body's acceptance of the public work on a particular*  
2 *date.*

3 (c) The tolling provisions in this section shall also apply to the  
4 period of time for commencing an action brought by a joint  
5 labor-management committee pursuant to Section 1771.2.

6 ~~SECTION 1. Section 687 is added to the Business and~~  
7 ~~Professions Code, to read:~~

8 ~~687. (a) (1) A medical group or clinic shall not state, verbally~~  
9 ~~or in writing, that it is within a patient's plan network or provider~~  
10 ~~network unless all of the individual providers providing services~~  
11 ~~with the medical group or clinic are within that plan network or~~  
12 ~~provider network.~~

13 ~~(2) If any of the providers are not within the plan network or~~  
14 ~~provider network, then the medical group or clinic shall recommend~~  
15 ~~that the patient contact his or her health care service plan or health~~  
16 ~~insurer for information about providers who are within the patient's~~  
17 ~~plan network or medical network.~~

18 ~~(b) For purposes of this section, the following definitions shall~~  
19 ~~apply:~~

20 ~~(1) "Clinic" means a surgical center as defined in paragraph (1)~~  
21 ~~of subdivision (b) of Section 1204 of the Health and Safety Code,~~  
22 ~~an outpatient setting as defined in paragraph (1) of subdivision (b)~~  
23 ~~of Section 1248 of the Health and Safety Code, or an ambulatory~~  
24 ~~surgical center certified to participate in the Medicare Program~~  
25 ~~under Title XVIII of the federal Social Security Act (42 U.S.C.~~  
26 ~~Sec. 1395 et seq.).~~

27 ~~(2) "Plan network" means any entity, group of providers, or~~  
28 ~~individual providers contracted with a preferred provider~~  
29 ~~organization plan contract or point-of-service plan contract.~~

30 ~~(3) "Provider network" means any entity, group of providers,~~  
31 ~~or provider contracted with a preferred provider organization health~~  
32 ~~insurance policy.~~

33 ~~(4) "Medical group" means any entity, group of providers, or~~  
34 ~~any other similar organization that contracts with a preferred~~  
35 ~~provider organization.~~

36 ~~(e) This section shall not apply to emergency services and care.~~

37 ~~SEC. 2. Section 1250.04 is added to the Health and Safety~~  
38 ~~Code, to read:~~

39 ~~1250.04. (a) (1) Prior to providing nonemergency services~~  
40 ~~and care to a patient, a hospital shall provide a written notice to~~

1 the patient stating that individual providers providing services  
2 within the hospital may not be in the patient's plan network or  
3 provider network.

4 (2) The hospital notice shall recommend that the patient contact  
5 his or her health care service plan or health insurer for information  
6 about providers who are within the patient's plan network or  
7 provider network.

8 (b) For purposes of this section, the following definitions shall  
9 apply:

10 (1) "Hospital" means a general acute care hospital as defined  
11 in subdivision (a) of Section 1250.

12 (2) "Plan network" means any entity, group of providers, or  
13 individual providers contracted with a preferred provider  
14 organization plan contract or point-of-service plan contract.

15 (3) "Provider network" means any entity, group of providers,  
16 or provider contracted with a preferred provider organization health  
17 insurance policy.

18 (e) This section shall not apply to emergency services and care.

19 (d) This section shall not apply if all of the providers providing  
20 services within the hospital are within the same plan network or  
21 provider network as the hospital.

22 SEC. 3. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.